

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Data Protection Commission pursuant to Article 77 of the General Data Protection Regulation, concerning Microsoft Ireland Operations Limited

Record of Amicable Resolution of the complaint and its consequent withdrawal pursuant to Section 109(3) of the Data Protection Act, 2018

Further to the requirements of EDPB Guidelines 06/2022 on the practical implementation of amicable settlements Version 2.0 (adopted on 12 May 2022)

**RECORD OF AMICABLE RESOLUTION FOR THE
PURPOSE OF EDPB GUIDELINES 06/2022 ON THE
PRACTICAL IMPLEMENTATION OF AMICABLE
SETTLEMENTS VERSION 2.0, ADOPTED 12 MAY 2022**

Dated the 12th day of April 2024



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 23 July 2023, ██████████ (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the **DPC**”) concerning Microsoft Ireland Operations Limited (“the **Respondent**”).
2. The DPC was deemed to be the competent authority for the purpose of Article 56(1) GDPR.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject submitted an access request to the Respondent after they noted that their login details appeared to have been changed and they could not gain access to their account.
 - b. In response, the Respondent advised the Data Subject that they would escalate their case to the dedicated account support team. The Data Subject stated that they did not receive any further response from the Respondent and, accordingly, submitted a complaint to the DPC.

Action taken by the DPC

4. The DPC, pursuant to Section 109(4) of the Data Protection Act, 2018 (“the **2018 Act**”), is required, as a preliminary matter, to assess the likelihood of the parties to the complaint reaching, within a reasonable time, an amicable resolution of the subject-matter of the complaint. Where the DPC considers that there is a reasonable likelihood of such an amicable resolution being concluded between the parties, it is empowered, by Section 109(2) of the 2018 Act, to take such steps as it considers appropriate to arrange or facilitate such an amicable resolution.
5. Following a preliminary examination of the material referred to it by the Data Subject, the DPC considered that there was a reasonable likelihood of the parties concerned reaching, within a reasonable time, an amicable resolution of the subject matter of the complaint. The DPC’s experience is that complaints of this nature are particularly suitable for amicable resolution in circumstances where there is an obvious solution to the dispute, if the respondent is willing to engage in the process. In this regard, the DPC had regard to:
 - a. The relationship between the Data Subject and Respondent (being, in this case, an individual consumer and a service provider); and
 - b. The nature of the complaint (in this case, an unsuccessful attempt by the Data Subject to exercise their data subject rights).
6. While not relevant to the assessment that the DPC is required to carry out pursuant to Section 109(4) of the 2018 Act, the DPC also had regard to EDPB Guidelines 06/2022 on the practical

implementation of amicable settlements Version 2.0, adopted on 12 May 2022 (“**Document 06/2022**”), and considered that:

- a. the possible conclusion of the complaint by way of amicable resolution would not hamper the ability of the supervisory authorities to maintain the high level of protection that the GDPR seeks to create; and that
- b. such a conclusion, in this case, would likely carry advantages for the Data Subject, whose rights under the GDPR would be vindicated swiftly, as well as for the controller, who would be provided the opportunity to bring its behaviour into compliance with the GDPR.

Amicable Resolution

7. The DPC engaged with both the Data Subject and Respondent in relation to the subject-matter of the complaint. On 27 November 2023, the DPC wrote to the Respondent formally commencing its investigation and requesting that the Respondent address the issues raised.
8. In response, the Respondent explained to the DPC that, at the time the request was made, it had engaged with the Data Subject in order to authenticate their ownership of the account in order to provide access to their data. The Respondent explained that the Data Subject was unable to verify themselves and became unresponsive to the Respondent’s request for account authentication. Accordingly, the Respondent explained that the Data Subject’s complaint was made to the DPC despite it continuing to engage with the Data Subject in relation to their request. Following the DPC’s investigation, the Respondent engaged further with the Data Subject to further assist with verifying ownership of their account.
9. On 5 February 2024, the Respondent confirmed to the DPC that the Data Subject had regained access to their account and were able to access a copy of their data.
10. In light of the explanations provided by the Respondent as set out above, and the fact that it had facilitated the Data Subject in regaining full access to their account, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. On 20 February 2024, the DPC wrote to the Data Subject outlining the Respondent’s actions in response to the DPC’s investigation. In the circumstances, the DPC asked the Data Subject to notify it, within a specific timeframe, if they were not satisfied with the outcome, so that the DPC could take further action. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.
11. In circumstances where the subject-matter of the complaint has been amicably resolved, in full, the complaint, by virtue of Section 109(3) of the 2018 Act, is deemed to have been withdrawn by the Data Subject.

Confirmation of Outcome

12. For the purpose of Document 06/2022, the DPC confirms that:

- a. The complaint, in its entirety, has been amicably resolved between the parties concerned;
- b. The agreed resolution is such that the object of the complaint no longer exists; and
- c. Having consulted with the supervisory authorities concerned on the information set out above, as required by Document 06/2022 the DPC has now closed off its file in this matter.

13. If dissatisfied with the outcome recorded herein, the parties have the right to an effective remedy by way of an application for judicial review, by the Irish High Court, of the process applied by the DPC in the context of the within complaint.

Signed for and on behalf of the DPC:



Deputy Commissioner

Data Protection Commission